

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED

SEP 30 1999

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

Civil Action Number

ENTERED

87-C-2182-S

OCT 01 1999

**PERRY WOODS, individually and on
behalf of all others similarly situated,**

Plaintiffs

v.

**BOARD OF TRUSTEES OF THE
UNIVERSITY OF ALABAMA,
etc., et al,**

Defendants

MEMORANDUM OPINION ON THE CLAIM OF ARTHUR W. KING

Class member Arthur W. King alleges that in violation of the Consent Decree, he was denied admission into the Heating and Air-Conditioning ("HVAC") apprentice program of UAB. Based on the findings which follow, the Court finds and concludes that King has not carried his burden of proof.

King was hired at UAB on March 29, 1982. He transferred into the Facilities Management Division in 1989. He is presently classified as a Utility Worker 1. He has completed three quarters of HVAC courses at Bessemer Technical Junior College.

Five HVAC positions have been filled in the relevant time frame. It is without dispute that King never applied for either of them. Tr. 152. King maintains that he was discouraged from applying for these positions because UAB initially and erroneously

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utilized divisional seniority rather than total UAB seniority in filling them. But the rub is that King cannot prove that his application would have been futile - i.e., that had he applied, the other applicants would have had more divisional seniority but less total seniority than he and that they would have therefore been entitled to the apprenticeship. Tr. 157, 158.

Moreover, King did not meet one of the qualifications for HVAC apprentice until July 1992. He was not a general mechanic prior to that time, and he did not meet the alternative two-years' experience requirement. Tr. 161 - 163. By July 1992, the HVAC apprentice vacancies had all been filled.

Therefore, King's complaint is not sustained by the evidence.

By separate order, judgment shall be entered in favor of UAB on the claim of Arthur King.

Done this 30th day of September, 1999.

A handwritten signature in black ink, appearing to read "U.W. Clemon", is written over a horizontal line.

United States District Judge
U.W. Clemon